

## SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SAN JOSE

AND

ASSOCIATION OF LEGAL PROFESSIONALS (ALP)

### VACATION SELLBACK

The current Agreement between the City and ALP provides for a vacation sellback program. ALP represented employees are eligible to sellback one hundred twenty (120) hours of accrued vacation per payroll calendar year.


Internal Revenue Service (IRS) regulations require the City to report and withhold taxes on the value of the vacation time an employee is *eligible* to sellback. In order to ensure compliance with the IRS requirements and to avoid unanticipated tax consequences, the City and ALP agree to the following changes to the vacation sellback program and that these changes supersede the current ALP vacation sellback program:

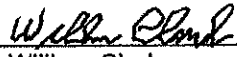
- ALP represented employees must elect the number of vacation hours they will sellback during 2011, up to the maximum number of 120 hours, prior to the start of the 2011 calendar year;
- The election to sellback vacation hours in 2011 is *irrevocable*. This means that ALP represented employees must sellback the elected number of accrued vacation hours during 2011;
- ALP represented employees who do not make an election or who do not submit an election form by December 25, 2010, will not be eligible to sellback any vacation hours in 2011;
- ALP represented employees can elect to sellback only vacation hours accrued in 2011, and any vacation hours accrued and carried over prior to 2011 are not eligible for sellback;
- Any vacation hours accrued in 2011 by ALP represented employees will not be available for use until the employee's accrued vacation hours in 2011 equal the number of hours the employee has elected to sellback in 2011. Then, only those vacation hours accrued in 2011 over the number of hours an ALP represented employee elected to sellback in 2011 will be available for use by the employee. This means that hours elected for sellback may only be used for sellback purposes and cannot be used for vacation time off purposes;
- ALP represented employees may still use any vacation hours accrued and carried over prior to 2011, except for sellback and subject to the normal rules of requesting use of vacation;

The City and ALP also agree to meet and confer regarding the vacation sellback program for calendar year 2012.

FOR THE CITY:

FOR THE EMPLOYEE ORGANIZATION:

 12/14/10  
Gina Donnelly Date  
Deputy Director of Employee Relations

 12/14/10  
William Clark Date  
ALP President